THE POLITICAL CAUSES WHICH SHAPED THE STATUTE OF USES.

I.

THAT the fiscal needs of Henry VIII had much to do with the passing of the Statute of Uses, that Henry had great difficulty in inducing Parliament to pass it, and that the Statute when passed was very unpopular, are ascertained facts of our legal history. Owing to the absence of the journals of Henry's Parliaments there is no direct evidence of the manner in which the Statute was pioneered through Parliament in 1535–36. But from other sources we have evidence of the failure of Henry's earlier attempts to restore his feudal revenue, and at the same time to settle the problem of the use. I hope to show in this paper that the Statute of Uses did not represent Henry's original scheme, but that it was the result of a compromise with one of the parties in the House of Commons which had successfully opposed that scheme; and that, like many other important statutes, its form was largely determined by the necessity of conciliating a strong parliamentary opposition.

Some years before the passing of the Statute of Uses fiscal necessities had led Henry VIII to reflect upon the depletion of his feudal revenue. Loans and benevolences meant the complete loss of a personal popularity, which the divorce proceedings and the threatened legislation against the church were beginning to imperil. Though he was able, partly by persuasion and partly by diplomatic pressure, to induce Parliament to further his ecclesiastical policy and his matrimonial schemes, he could not induce it to vote him a permanently adequate supply. Under these circumstances the restoration of his feudal revenue, which after all was his own property, appeared to Henry's legal mind as the most promising source from which a permanent increase in the royal revenue might be drawn.

Henry's attention, therefore, was directed to the land law; and in the land law he could not but see much that displeased him; for it was at once the most highly developed and the most irrational

part of the common law.[1] He did not hesitate to propose to make in it changes of the same drastic character as those which he was making in other branches of the law.

In 1529 two measures were drawn up to be submitted to Parliament.

The first[2] was a draft bill which, if it had been carried, would have at once revolutionized and simplified the law. It began by reciting the "grate trobull, vexacion, and unquietness amonges the kynges suggettes . . . for tytyll of londes, tenements, and other heriditamentes . . . as well by intayle as by uses and forgyng of false evidence." It went on to provide the following drastic remedies: (1) All entails were to be abolished and none were to be permitted for the future, "so that all manner of possessions be in state of fee simple from this day forward for ever."[3] (2) No uses of any land were to be valid, "onles the same use be recordid in the kynges courte of the commen place."[4] A special officer of the court was to be deputed to keep a separate roll for each shire, and he was to charge certain fees for keeping the roll.[5] (3) To avoid the risk of forgery, all purchasers were required, so soon as the deed of conveyance was sealed and livery of seisin made, to have the deed openly read in the parish church or churches where the land was situate, "att suche tyme as moste people be present." The priest was to "fyrme the said deede"; and it was to be registered "in the schere towne in which the land lay."[6] (4) All lands of which recoveries had already been suffered or fines levied were, after the lapse of five years, to be held in fee simple by those in whose favor the recovery had been suffered or the fine levied;[7] and all seised of lands of which they or their ancestors had been peaceably seised for forty years without claim made were to have an indefeasible title.[8] (5) Entails were still to be permitted, "to the nobyll men off thys realme being within the degree of a baron"; and no one was to buy such noblemen's land without the king's license.[9] If such license were given, the deed must comply with

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[1] Holdsworth, 2 History of English Law 501, 502.

[2] Letters and Papers, Henry VIII, vol. 56, ff. 36–39, calendared Letters and Papers, Henry VIII, IV, No. 6043 (b); printed below, p. 122, and referred to hereafter as No. I.

[3] No. I, § 2.

[4] *Id.*, § 3.

[5] *Id.*, § 3.

[6] *Id.*, § 4.

[7] *Id.*, § 7.

[8] *Id.*, § 8.

[9] *Id.*, § 5.

the formalities required for ordinary conveyances, and the purchaser was to hold in fee simple.[10]

This measure proposed to give considerable privileges to the nobility. In return the nobility were prepared to concede something to the king. Their concessions form the second of these two measures. They are contained in twenty-three elaborate articles which, having been agreed upon by the king and the nobility, were to be laid before Parliament for its sanction.[11]

Under these articles the king was to have the wardship of the lands of all his tenants holding of him for an estate of inheritance by knight service in chief and leaving an infant heir (excepting only the fees of the Archbishop of Canterbury and the Bishop of Durham between Tyne and Tees), whether the tenant had the use or the legal estate.[12] If the land was devised or otherwise settled the king was to have the wardship of a third (notwithstanding such devise or settlement) from the lands so devised or otherwise settled;[13] but with a saving for the rights of tenants under existing settlements.[14] If part was devised or otherwise settled, and part not, the king was to elect whether he would take the part not devised or settled, or whether he would take the third.[15] If the land held of the king by knight service in chief did not amount to a third of all the tenant's lands, and he devised or otherwise settled all his other lands, the king was to have the wardship of the lands held in chief and of so much of the other lands as would amount to a third of all his lands.[16] Any estate coming to the ward from his ancestor who held of the king, by reason of the expiration of a particular estate, was to be held by the king, unless otherwise settled.[17] The same rules were to apply to lands held of the king by reason of any escheat, honor or otherwise, and not in chief.[18] On suing out livery the king was to be entitled to a whole year's profits of a third of the land;[19] and specific rules were made as to the time for suing

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[10] No. 1, §§ 5 and 6; the latter section seems to be designed to make it clear that these lands are from henceforth to be held in fee simple.

[11] Cotton MSS. Titus B. 4, ff. 114 (125)–118 (125), calendared Letters and Papers, Henry VIII, IV, No. 6044.

[12] *Id.*, Articles 1, 2, and 20.

[13] *Id.*, Articles 3 and 20.

[14] *Id.*, Article 21.

[15] *Id.*, Article 4.

[16] *Id.*, Article 5.

[17] *Id.*, Article 6.

[18] *Id.*, Article 7.

[19] *Id.*, Article 8; under the existing rule the king took half a year's profits of all the land.

out livery of estates in possession and reversion.[20] Heirs of full age were to pay half a year's profits as before.[21] It was provided that recoveries to secure jointures or settlements of the land were to be permitted as before, and should have the same effect.[22] Mesne lords were to have the same advantages as the king;[23] and these rules were to apply to *Gard pur cause de gard.*[24] Neither the king nor any other lord was to have any right of marriage in respect of persons ("being of the full age of consent") married in the ancestor's life.[25]

It was provided that no tenant in chief should make any gift in tail or to any other use, or do any other thing whereby the king should be excluded from any profit of ward, primer seisin, or livery contrary to the effect of this agreement; and that

"if any other imaginacion or invencion hereafter shall be found contrived or devised contrarie to the same, yet that, or any such thinge notwithstandinge, the kinge's heighnes, his heirs and successors, shall have the full benefitte and effect of his wardship of the bodyes and landes, and of primier seisons, and liveries accordinge to the plaine and true intent of the said Articles and every of them." [26]

Conversely it was provided that,

"if at any time hereafter imaginacion devise or invencion shall be found or contrived for the kinge's heighness . . . whereby it shall be pretended that any larger or more profitts or advantages concerninge his . . . wardships, primier seasons, or liveries should or might grow to the kinge's heighnes . . . than by the plaine or true meaninge declared by the Articles above written is limited or appointed, yet, that notwithstandinge, the kinge's heighnes is contented that it shall be enacted that his Grace . . . shalbe pleased to accept and take the benefitts and profitts before limited by the said Articles, and none other more or larger." [27]

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[20] Cotton MSS., *supra*, Articles 8–13, 23.

[21] *Id.*, Article 12.

[22] *Id.*, Articles 16 and 17.

[23] *Id.*, Article 19.

[24] *Id.*, Article 22; *gard pur cause de gard* arises where there is lord, mesne, and tenant, and the mesne is in ward to the lord, and the tenant dies leaving an infant heir, — in that case the infant heir is in ward of the lord *pur cause de gard*, see 43 Ass. pl. 15; Plowden, 334; Rolle, Ab. *tit.* Garde B. 20, 25.

[25] *Id.*, Article 22.

[26] *Id.*, Article 14; for the manner in which a gift in tail might defeat wardship, see Bingham's Case, 2 Co. Rep. (1598–1600), at pp. 91 b, 92 a.

[27] *Id.*, Article 15.

In the event of the death of any of the signatories of these articles before they were enacted by Parliament, the articles were to be binding upon their heirs.[28]

Henry might make a bargain with his nobility; but it was quite another matter to induce the House of Commons to ratify it. The large landowners, under the degree of barons, saw themselves deprived of the power of making secure family settlements and secret conveyances. The lawyers saw themselves deprived of a large amount of profitable business. It is not surprising therefore that measures which roused the hostility of the two most powerful interests in the House of Commons came to nothing.[29]

But the need for money was pressing; and Henry was determined. In the Parliament of 1532 he was again pressing his proposals. But apparently he only succeeded in arousing a more determined opposition; for Chapuys relates that the royal demands "had been the occasion of strange words against the king and council." [30] It was clearly impossible to carry the original scheme through the House of Commons. The alliance between the king and his nobility had been found to be useless for this purpose. There must be a new scheme founded on a new alliance between the king and one of the interests in the House of Commons which had blocked the original scheme.

There could be little doubt which of these interests it would be the most easy to win. It was not likely that the landowners would ever consent to any scheme which would deprive them of the power of making secure family settlements and secret conveyances. On the other hand the lawyers, and probably other classes in the community, were prepared to admit that uses often furthered fraudulent dealing. Both the preamble to Richard III's statute,[31] and "The

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[28] Cotton MSS., *supra*, Article 18.

[29] For the large influence which the lawyers had in the House of Commons see an article in 12 COL. L. REV. 16–18, 25, by the present writer.

[30] Letters and Papers, V, No. 805. Chapuys relates that the king was trying to get from Parliament a third of the feudal property of deceased persons, but that he had not succeeded, and that the demand had been the occasion of strange words against the king and council; *id.*, No. 762, he relates that the question whether the king should have the goods of all lords who die, even when they leave a son of full age, had been discussed in Parliament; *id.*, No. 989, he says, "the king has again referred to Parliament the rights he wishes to have on inheritances, but Parliament will not agree to it."

[31] 1 Richard III, c. 1; *cf.* Holdsworth, 2 History of English Law 403, n. 6.

Replication of a Serjeant to the Doctor and Student,"[32] show that this feeling existed.[33] Probably the perception of the common lawyers was quickened by their professional jealousy of the Chancery. Many of them no doubt would have liked to capture for their own courts jurisdiction over this new form of property, which was making the fortune of the new court of Chancery; and the new theory which at this time was beginning to make its appearance in the law courts that uses were known to and recognized by the common law[34] is perhaps evidence of this desire, — "The wish was father to the thought." Clearly there was a possibility of drawing a measure which would both give the king what he wanted and command the approval of the lawyers.

The way in which the king went to work was characteristic of his diplomatic methods. He frightened the landowners by the stringency of his inquiries into settlements which deprived him of his rights;[35] and he frightened the lawyers by listening to a petition

[32] Hargrave, Law Tracts, 323–331; the full title is, "A Replication of a Serjaunte at the Lawes of England to certaine Pointes alleaged by a Student of the said Lawes of England in a Dialogue in Englishe between a Doctor of Divinitye and the said Student."

[33] "They [uses] began of an untrue and crafte invention to put the king and his subjects from that which they ought to have of righte by the good true common lawe of the realme; as the kinge's highnes from his escheats, his wardes, and his primer seasins . . . and his subjects from their escheats and wardes, women from their dowers, and husbandes of such women that be inheritours from their tenures by the curtesie of England . . . And those that have good right and tytle to any land to recover it by action after the course of the common lawe be put from their actions. . . . By soche uses the good common lawe of the realme . . . is subverted and made as voyde, so that none of the saide subjects can be and stand in anie surety of any possession," *id.* 328, 329; the remarks made by Lord Ellesmere upon the fraud rendered possible by Henry VIII's Statute of Wills show that there was some ground for the views expressed in the preamble to the Statute of Uses; Hudson, Star Chamber, 69, tells us that he said that the Statute of Wills "was not only the ruin of ancient families, but the nurse of forgeries, for that, by colour of making wills, men's lands were conveyed in the extremity of their sickness, when they had no power of disposing of them."

[34] Holdsworth, 2 History of English Law 505; from this the conclusion was sometimes drawn that the incidents of the estate of the *cestui que use* should follow closely all the incidents of the legal estate, Y. B. 27 Henry VIII, Pasch. pl. 22, *per* Horewood and Pollard, *arg.*; Anderson, C. J., Corbet's Case, 2 And. (1599) at pp. 142, 143, showed that this view was a fallacy; the arguments, he shows, are "*illusions à ignorants et rien a le purpose d'estre mises a prover use all Commen Ley*"; and Bacon, Reading on the Statute of Uses (7 Works, ed. Spedding, 402), concurs.

[35] See Letters and Papers, VII, No. 383 (1534). Cromwell writes to the sheriff of Yorkshire that, being informed of the death of Sir J. Denham, who held lands *in capite* of the king, the council think that, in order to prevent the king's rights from

against abuses in the administration of the law.[36] This petition was addressed to the king and the lords spiritual and temporal because

"soo many lerned men [*i. e.*, lawyers] byn rulers in your commen house ayenst whome noo man ther dar ne may make eason [*sic*] in any cause ayenst their advayles or profetts."

It complained of the delays in the law, and the quibbles raised by the lawyers for the defense of untrue titles; the heavy fees which they demanded;[37] the difficulty in getting judgments executed owing to the bribery of undersheriffs, and the misconduct of attorneys and juries. It pointed out that, in consequence, persons were compelled "for veary poverte to sue to your grace by peticion whereby your grace and counsaill are molested and troubled." It prayed, in conclusion, that statutes should be enacted to expedite causes, and to fix the fees of counsel, attorneys, and sheriffs.

As usual Henry's diplomacy was successful.

II.

In 1535-36, two years after the presentation of the petition against abuses in the administration of the law, a list of grievances suffered by the realm from uses,[38] three draft bills concerning uses and wills,[39] and one draft bill concerning the enrolment of covenants, contracts, bargains, or agreements made with reference to

being cloaked, the persons to inquire for the king should be resident near the lands; the names of suitable persons are enclosed; the case reported in Y. B. 27 Henry VIII, Pasch. pl. 22, affords another illustration.

[36] State Papers, Henry VIII, Q. f. 138 (31), calendared Letters and Papers, Henry VIII, VII, No. 1611 (3) (1534).

[37] "Nother sergeauntes nor apprenticis woll for the preferment of theyr clyauntes cause goo . . . barre at any tyme afor your Justices without the fee of iijs. iiijd. to theym be gevyn for . . . every tyme soo goyng, whiche in sundry termes consideryng the manyfold dilayes nowe used. . . . Thurre undoyng and distruccion of a poore man"; the manuscript is defective, but the sense is plain, the records contained in Plowden's or Coke's Reports, which set out the numerous adjournments from term to term, bear out the justice of this complaint.

[38] Letters and Papers, Henry VIII, vol. 101, f. 282, calendared Letters and Papers, Henry VIII, X, No. 246 (3); printed below, p. 123, and referred to hereafter as No. II.

[39] Letters and Papers, Henry VIII, vol. 101, ff. 252, 261 *et seq.*, 286, calendared Letters and Papers, Henry VIII, X, Nos. 246 (1), (2), (4). The draft bill in Letters and Papers, f. 286, calendared Letters and Papers, X, No. 246 (4), is printed below, p. 126, and is referred to hereafter as No. III.

the uses of lands,[40] were before Parliament. It was from this material that the Statute of Uses, and the statute supplemental to it,[41] concerning enrolments of bargains and sales, finally emerged.

The list of grievances suffered by the realm from uses is long and detailed. It is written in two hands and there is a certain amount of repetition.[42] In some cases it gives particular instances of inconveniences suffered;[43] and at the end there is a summary statement of the various fraudulent purposes which uses had been made to serve.[44] The writers insist much on the disadvantages of uses from the point of view of the *cestui que use*, of the public at large, of the king and lords, and of the law. The *cestui que use* is at the mercy of a fraudulent bailiff or feoffee; nor can he take action against a trespasser. He loses his curtesy, and his wife her dower. The king loses his forfeitures, and king and lords lose their incidents of tenure. The public at large is defrauded because no man can tell against whom to bring his action, nor is anyone secure in his purchase. The law is wholly uncertain — "the openyons of the Justices do chaunge dely apon the suertyez for landes in use." [45] The use is, "but the shadowe of the thyng and not the thyng indeyd." [46] It causes the law to be double, and to sever the real from the apparent ownership, "which is a grett disseytt." [47]

"Where per case some one man takyth esyngler welth their be a hundrioth against one that takyth hurt and losse theirby, is yt a good law" ? [48]

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[40] Letters and Papers, Henry VIII, vol. 101, f. 303, calendared Letters and Papers, Henry VIII, X, No. 246 (6).

[41] The draft bill is far more elaborate than the Statute of Enrolments actually passed, — 27 Henry VIII, c. 16. But it is quite clear that both the draft bill and the actual statute were integral parts of Henry's scheme for dealing with uses. The Statute of Enrolments was certainly not, as is sometimes stated (*e. g.*, Jenks, Short History of English Law, 121), a statute passed in a hurry to supply an unforeseen defect in the Statute of Uses. It is really, as Bacon pointed out in his Reading on the Statute of Uses (7 Works of Francis Bacon, ed. Spedding, 432), a proviso to the Statute of Uses, — "Foreseeing that the execution of uses would make frank-tenement pass by contracts parol, they made an ordinance for enrolments of bargains and sales . . . but without any preamble, as may appear, being but a proviso to this statute."

[42] No. II, §§ 1 and 34, 3 and 12, 5 and 35.

[43] *Id.*, §§ 6, 10, 11, 18, 19, 22, 30, 31.

[44] *Id.*, §§ 38–43.

[45] *Id.*, § 2.

[46] *Id.*, § 15.

[47] *Id.*, §§ 32, 35.

[48] *Id.*, § 13.

the writer asks. He thinks it would be a good thing if uses were "clene put out the lawe." [49] The document is an able statement of the case against uses; and it may well have been the raw material upon which those who drew the preamble to the statute worked.

The three draft bills concerning uses and wills present two different schemes for dealing with the problem of the use — there is a less thorough-going scheme which was not followed, and there is the more complete scheme which was followed.

The less thorough-going scheme [50] begins with a short general preamble to the effect that by means of uses "the good old lawes of the realme be nygh subverted"; and then goes on to subject the equitable interest to the liabilities of the legal estate for certain purposes, and to limit the modes in which uses can arise. Thus the estate of the *cestui que use* is made liable to forfeiture on attainder, to curtesy, to his ancestors' specialty debts to which the heirs were bound, and to the incidents of tenure.[51] Recoveries, fines, feoffments, releases, and confirmations by *cestui que use* were to have the same effect as if *cestui que use* had had the legal estate.[52] For the future no uses were to have any legal effect except those clearly expressed at the time of conveyance; and a recovery was not to be suffered to any other use but to that of the recoveror.[53] No bargain, contract, covenant, or agreement with reference to land was to change the use of the land.[54] Those injured by the breach of such contracts were confined to their remedies for breach of contract.[54] Then comes a clause, the effect of which would have been somewhat revolutionary, as it would, apparently, have prevented a recovery from affecting the interests of remaindermen and reversioners without their own consent.[55]

This scheme would no doubt have put an end to some of the most crying evils produced by uses. But it would have effected this object by subjecting the use to many of the rules of the common law. It would have made the common-law modes of conveyance necessary if the use was to be transferred, and it would thus have stopped beneficial developments in the law of conveyancing. On the other hand it would not have stopped the practice of devising land, which was so hurtful to the king's pecuniary interests. The limitation

[49] No. II, § 15. [50] No. III. [51] *Id.*, §§ 1–4.
[52] No. III, § 4. [53] *Id.*, § 5. [54] *Id.*, § 6.
[55] *Id.*, § 7.

put upon the effect of a recovery, and the retention of the power to devise, lead one to think that this was a scheme put forward by the landowners. They wished to concede as little as possible, and hoped to minimize their concessions by introducing a clause which modified the effects of a common recovery. It was essentially a half and half measure. It was useless, or almost useless, to the king; and probably therefore it never had a chance of passing into law.

The more complete scheme, which is in substance enacted in the Statute of Uses, is contained in two draft bills.[56] They did not tinker with the problem as the other bill had done, but boldly annexed the legal estate to certain uses in land. Thus they got rid of the various evils attending the separation between the legal and equitable estate in the case of those uses to which they applied. But they did not abolish uses, as some had advocated; and thus they preserved for the land law the elements of elasticity, and the opportunities for development which were inherent in the use. The points wherein these draft bills differed from the statute actually enacted are merely verbal. In fact they show signs of having been corrected so as to embody the small changes made during the passage of the bill through Parliament.[57]

The draft bill concerning the enrolment of covenants, contracts, bargains, or agreements made with reference to the uses of lands [58] is as elaborate as the two last-mentioned draft bills concerning uses and wills; and it is clearly intended to be supplemental to them.[59] It proposed to enact that the use of lands should not pass nor be created by reason of "any recoveries, fines, feoffments, gifts, grants, covenants, contracts, bargains, agreements, or otherwise," unless declared by writing under seal and enrolled as provided by the act.[60]

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[56] Letters and Papers, Henry VIII, ff. 252, 261 *et seq.*, calendared Letters and Papers, Henry VIII, X, Nos. 246 (1), and 246 (2); these two documents are in substance identical so far as they go; but the former is much torn in one place, and it stops short some distance before its natural conclusion.

[57] Because they are substantially similar to the statute we have not thought it worth while to print them.

[58] Letters and Papers, Henry VIII, vol. 101, f. 303, calendared Letters and Papers, Henry VIII, X, No. 246 (6).

[59] It assumes that the use will pass by a bargain and sale, which would have been impossible under the first scheme.

[60] "The use . . . of suche londes shall not pass, alter, chaunge from on to an other nor shalbe had or made by or to any person or persons to any use or trust or confidence by reason of any Recoveries fynes Feoffments gyftes grauntes Covenaunts contracts

Further, it provided that, for the future, all evidences of any kind should be enrolled.[61] One chief officer or more (to be called the Master of Enrolments) was to be appointed by the king in each shire and riding; and for each of these officers a clerk was to be appointed by the Chancellor, to be called the Clerk of Enrolments. They were to take acknowledgments of and to enrol evidences and writings concerning lands within their districts;[62] they were to take an oath of office to act honestly, and to see that the parties to these documents were capable of disposing of their property;[63] and they were to have a seal wherewith to seal the documents acknowledged before them. The date of the acknowledgment and the number of the roll on which they were to be enrolled were to be endorsed on the deed; and all documents not enrolled within forty days of their date were to be void.[64] The deeds so enrolled were to be absolutely conclusive upon all parties to them.[65] The fees of these officials and their qualifications for office were fixed; and penalties were provided for neglect of duty. It is interesting to note that it was the committee of the Council, created by the Act *pro Camera Stellata* of 1495, which was given jurisdiction in such cases.[66] The clerk and the master must act together in

bargeyns Agrements or otherwyse, Onles that the use trust or confidence . . . be declared by wrytinges suffycyently to be made under seale . . . and that the same wrytyngs be enrolled in manner and forme underwrytten."

[61] "Also it ys ordeynyd . . . that all manner of evydences and wrytinges, of what name soever they be, concernyng londes tenementes or heredytaments, which shall be made after the said laste day of July . . . 1836, shalbe knowleged and enrolled in manner and Forme as shalbe hereafter expressed in thys acte."

[62] There was a proviso at the end for the enrolment of the conveyances of land which lay in sundry shires in such shire as the party might elect.

[63] "That . . . they shall not Receve the knowlege of any persons beinge naturall foles or not of hole mynde, and that they shall endevour themselves with all due cyrcumstance to knowlege and serche that the persons knowledgynge any evydences or wrytinges a for them do it of their true and good wytte."

[64] A relaxation was made in cases where the party making the deed died within the forty days.

[65] "No person . . . shalbe admitted to denye the same evidences and wrytynges soo knowlegyd and ynrollyd to be his . . . dede, Nor to allege that they were not hole of mynde at the makinge and sealinge of them nor that suche evydences or wrytinges were made by mynasses or duresse of imprisonment"; it was, however, provided in a later part of the act that the lands of *femes covert* should not be conveyed from them, "but after suche ordre and forme as hathe hertofore be accustomed by the course of the lawes of the Realme."

[66] "In case any of the seid offycers or Clarkes do falsely and untruly exercyse and use the seyde office in any parte that shall apperteine to the same, or take any more or

taking acknowledgments. The clerk must prepare the rolls; and, within thirty days after the end of the year, must deliver them to the master, who within the next thirty days must deposit them in the Chancery. These rolls were to be open to the public, and could be searched and copied on payment of fixed fees. Lands in towns where conveyances were enrolled before the mayor or other officer, were exempt, as were copyholds, and conveyances enrolled in the Chancery or before the Exchequer or the judges of either bench. Landowners were allowed, if they wished, to enrol evidences made before the Act came into force; and similarly persons were to be allowed, if they wished, to register "all oblygacyons, acquytaunces and other wrytinges consernyng personall thinges. Being enrolled, they were to have the same force and effect as if they had been acknowledged before a court of record.

This is a remarkably comprehensive scheme for the registration of conveyances; and, if it had been passed and efficiently carried out, we should have to-day in working order a series of county registers, which would have considerably simplified the land law. We should not now be struggling to fit a scheme of registration on to a system which the large unregulated powers of landowners and the ingenuity of conveyancers has made more complex than any other modern system. Such a scheme would have been easy to apply to a comparatively youthful legal system, and in a country which was as yet by no means densely populated. The then existing defects in the land law were caused chiefly by the complexity of the procedure in the real actions, and by the need to regulate uses. The first defect was to a large extent remedied by the substitution of the more convenient action of ejectment for the older real actions; and the second would have been remedied to a large extent by the Statute of Uses, if it had been combined with an act providing a comprehensive scheme of this kind for the registration of conveyances. The causes which render a scheme of registration so difficult to-day are largely the result of the failure to pass the bill proposed in 1536.

other fees than is above lymyted by this Acte, and be thereof convict by witnes proves or confessyon be fore the lord Chauncellor lorde Tresorer lord presydent of the kinges most honorable Counseill lord pryvy seall or any of them syttyng yn the sterre Chamber at Westminster and Calling to them the too chyff justices of eyther bynche for the tyme beinge or one of them, that then every of them, so beinge convicte, shall lose his offyce, and gelde treble damages to the party greved, And over that shall have imprysonment of his bodye tyll he have made fyne att the kynges wyll and pleasure."

Parliament chose the right course when it passed the comprehensive scheme submitted to it for dealing with the problem of the use. It was necessarily a difficult and a complicated act to consider; and perhaps Parliament was hardly prepared to face the labor of considering another act quite as difficult and complicated. Perhaps too the lawyers again united with the landowners to throw it out; for it is clear that universal registration and the publicity necessarily involved were not quite in accordance with either of their interests. Certainly the pecuniary interests of the king were not so directly involved in the passing of these proposals. But the reasons for their abandonment we can only conjecture. We could only learn the truth if the missing records of the proceedings of this Parliament were to come to light. Whatever the truth may be, it is clear that a great opportunity was lost for ever when this bill was rejected. Parliament declined to consider a general scheme of registration, and passed instead a short act, supplemental to the Statute of Uses, to deal simply with those bargains and sales of freehold interests in land which the Statute of Uses had converted into conveyances. The ingenious conveyancer had not much difficulty in evading the obligation to enrol imposed by this makeshift piece of legislation.[67]

This history of the political causes which shaped the Statute of Uses enables us to appraise the preamble to the Statute at its true historical value. Like the preambles to other statutes of this period it is far from being a sober statement of historical fact. Rather it is an official statement of the numerous good reasons which had in-

[67] That the Statute of Enrolments did not extend to a bargain and sale for a term of years was recognized at least as early as 1595, Heyward's Case, 2 Co. Rep. at p. 36 a; it was decided in Lutwich *v.* Mitton, Cro. Jac. 604 (1620), that a bargain and sale for a term followed by a release would pass the freehold. The statute did not refer to covenants to stand seised in consideration of love and natural affection, not, as Mr. Jenks (Short History of English Law, 121) says, because the legislature was "determined to tolerate them," but because they did not at this date operate as conveyances, see Wingfield *v.* Littleton, Dyer 162 (1558); *cf.* Y. B. 27 Henry VIII., Mich., pl. 16; it was not till the cases of Sharington *v.* Strotton, Plowden 298 (1565), and Callard *v.* Callard, Cro. Eliz. 344, Popham 47, 2 And. 64 (1597), that the law as to the form and effect of the covenant to stand seised was finally settled. The reference No. III, § 6, to a covenant changing the use is not inconsistent with this view, since at this period, as Ames has pointed out, the term "covenant" is often used simply as a synonym for contract. In fact there is an interesting little history to be told of the evolution of the covenant to stand seised — but it is too long for a note.

duced the government to pass so wise a statute, — the sixteenth-century equivalent of a leading article in a government newspaper upon a government measure. It bears upon it the traces of the alliance between the king and the common-lawyers by means of which the statute had been carried through the House of Commons. It contains all the objections to uses which were the commonplaces of the lawyers, — "the fraudulent feoffments, fines, recoveries, and other assurances craftily made to secret uses interests and trusts"; the testaments made by dying men under the influence of greedy and covetous persons; the insecure titles of purchasers; the loss of dower and curtesy; the perjuries committed in the legal proceedings arising out of these secret uses. Skilfully insinuated among these objections, and holding by no means a prominent place, are those which the king felt so keenly, — the loss of the incidents of tenure, of the lands of traitors, of land given to aliens, of the escheats, and of the rights to year day and waste of the lands of felons.[68]

Professor Maitland has truly said that the Statute of Uses "was forced upon an extremely unwilling Parliament by an extremely strong-willed king."[69] But I think that the evidence shows that this strong-willed king was obliged first to frighten and then to conciliate the common-lawyers in order to get the Statute through the House of Commons; and that probably their opposition caused the failure of his well-considered scheme for the registration of conveyances. If this be so the action of the common-lawyers has had a large effect upon the form which the Statute of Uses and the Statute of Enrolments finally assumed, and, consequently, upon the whole of the future history of the law of real property.[70]

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[68] "The lords have lost their wards, marriages, reliefs, heriots, escheats, aids *pur faire filz chivalier* and *pur file marier*. . . . The king's highness hath lost the profits and advantages of the lands of persons attainted, and of the lands craftyly put in feoffment to the uses of aliens born, and also the profits of waste for a year and a day of felons attainted, and the lords their escheats thereof"; as a matter of fact lands held to the use of traitors had been declared forfeit by a statute of the preceding year, — 26 Henry VIII, c. 13, § 4.

[69] Maitland, Equity, 35.

[70] Mr. Jenks thinks (Short History of English Law, 100) that "the secret and unavowed purpose" of the Statute of Uses was to secure "the estates of the monasteries for the crown" — that in fact it was introduced in view of the act against the smaller monasteries which was passed in the same session of Parliament as the Statute of Uses, — 27 Henry VIII, c. 28. I cannot agree to this theory. In the first place, the evidence which I have adduced seems to show that the two objects of the Statute were (*a*) the

NO. I.

LETTERS AND PAPERS. HENRY VIII. Vol. 56, fos. 36–39. Calendared in L. and P., H. VIII. Vol. IV. No. 6043 (6).

[I have divided this document into numbered paragraphs for convenience of reference. In the original there is no such division. I have punctuated both this and the succeeding documents.]

(1) For as moche as long before thys tyme hathe ben and yett to this present day there is grete trobull vexacion and unquietness amonges the kynges suggettes withyn this hys nobyll realme of Inglonde, whiche trobull moste comenly risith amonges the sayde suggettes for tytyll of londes tenementes and other hereditamentes within thys hys realme, as well by intayle as by uses and forgyng of false evidences, whiche all is so secretely done that men can nott com to the trew knowledge therof for lake of good and holsum lawis provided for the same, by whiche the purcheser or biar may have perfett knowledge in what case and condicion the premisses stond, to the grete dishonor of owre soverayn lord the kyng, all his realme, and to the intollerable costes and charges and utterly undoyng of a grete parte of his feyghtfull suggettes within this hys realme.

(2) FOR REMEDI wherof and for augmentacion of Justes be hytt In actyd by owre soverayn etc. that, from the fyrst day of Janiver next coming forward for ever, all intayles made of londes tenementes and all other hereditamentes be utterly frustrate disannulled and adnichelate for ever, as well intayles before thys day made as any hereafter to be made so that all manner of possessions be in state of fe simple from this day forward for ever.

(3) FURTHERMORE be ytt inactyd by like auctorite thatt no use nor uses hereafter to be made to any person or persons upon or for eny possescions within thys realme be vayleable or of eny effect in the law, nor that no manner of person schall take or reseyve any profett or benefite of the same, onles the same use be recorded in the kynges courte of the comen place, and that the officer or officers therfor deputed schall kepe for everi schere within thys realme a particuler Rooll or boke to the intent that the purcheser and all other may com to the knowledge therof by the sayde recordes, and that the officers therfor deputed schall take to the kynges use for suche record ij s. sterling and nomore, and for the regestring and writyng thereof for everj viij lines being of x inches long j d. sterling and no more.

(4) AND be hyt further enactyd by like auctorite, to avoyde all untrowthe for forgyng of evidences, that every purcheser schall,[1] immediatly after the partie tha sellyth hathe selyd and fermid the deade of geft of any londes tenementes for [sic] other hereditamentes so sold and poscession thereapon taken with sufficient recordes, that then the sayd dede to be openly red apon a holy day next folowyng in the parische cherche or cherchis in whiche parische or parisches the sayd lond schall ly, att suche tyme as moste people is present,

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improvement in the king's feudal revenue, and (*b*) a much needed improvement in the land law; in the second place, the Statute was not needed for the purpose for which Mr. Jenks supposes that it was passed; in acts of attainder it was common to include the lands of which the attainted person had the use and to exclude those of which he was merely feoffee to uses, see Holdsworth, 2 History of English Law, 403, n. 3, and for another illustration see also 21 Henry VIII, c. 25; what the legislature habitually did in acts of attainder it could equally well have done in the act dissolving the smaller monasteries.

[1] The grammar is somewhat faulty.

and so red, the vicar parische preste or curate to fyrme the sayd deede, to the intent that the most parte of the parische may knowe of the sayde sale and possession so made and gevyn; and for further suerte that the sayde deede be regestred in the schere towne In whiche schere the sayd lond schall lye, and the mayre bayliff or other hee officer of suche schere towne to sett to the seale of the towne or suche a seale as therfor schall be ordened and apoynted, and they to take for regestryng and sealyng of the same ij s. sterling and no more.

(5) Provided allways that this act nor nothyng theryn conteyned be in any wise preiudiciall to the nobyll men off thys realme, being within the degree of a baron, butt that theyr londes and possessions may remayne Intayled as hitt now is or hathe ben in tymes past, and that no maner of person or persons presume to by any suche noble mens inheritans within the degree aforesayd, except the sayd noble man have fyrst obteyned the kynges licens under hys brode seale therfor; the whiche obtayned, hytt schall be lawfull as well for the sayd nobull man to sell as to any of the kinges naturall borne subiectes to by and purchesse the same ther londes tenementes and other hereditamentes, withowte any preiudice of any of the parties.

(6) AND be hitt further inacted by like auctorite thatt londes tenementes and other possescions so purchased, being the dede openly redde in the parische or parisches where the lond lieth, subscribed by the curate regestrid, and sealid in the schere towne as is afore sayd, schall not be devict evict or recoverid owte of the power and possession of hym that so hathe purchased them In no court or courtes within the kynges realme, butt thatt he thatt is so possessed, as is aforesayd, schall peasably possess and inioy the same to hys heyrys and assines for ever.

(7) AND further be hytt inactyd by auctorite aforesayd thatt all manner of londes tenementes and other possessions of the whiche before thys tyme Recovery hathe ben had or fyne leveyd apon, and v yeris past after the recovery or fyne, be taken for fee symple in the law, to the possession of hyt for ever, any law or costume herto fore made or used to the contrary notwithstandyng.

(8) AND be hitt further inactyd by the auctorite aforesayd that every manner of person beyng seasid of londes tenementes and other possessions, of whiche hys anciters or predecessors have ben peasably seased and possessed by the space of xl yeris Immediattly afore, withowt any clayme made by dew course of the law within the sayd tyme, thatt then from thens forthe no action to be admitted in no corte or corttes withyn thys realme tō disposses any person or persons so possessid, butt that the possessor schall injoy the same to hym hys heyris and assines for ever.

NO. II.

LETTERS AND PAPERS. HENRY VIII. Vol. 101, fo. 282. Calendared in L. and P., H. VIII. Vol. X. No. 246 (3).

[I have added the numbers to the paragraphs of this document.]

Here after Folowyth a small parte (in regard) of ye myscheiffes wronges and in Conuenyensez which ye Kinges Subiectes do suffer by suffraunce of usez within this realme.

(1) Fyrst, y^{er} is no accion ayenst hym or them which have ye use but by statutez, wheirapon do ryse such doutes thatt no man can be sure of any land lawfully purchesyd by lawffull barganyng.

(2) Item, ye openyons of ye Justices do chaunge dely apon the suertyez For landes In use

(3) Item, y^{es} usez causyth ye Justices to be in doute or in seuerall openyons

In ye most Commen casez, as In case a man have dyvers Feffez to his use of landes In dyvers Townez within one shyre, and he do make a deed of Feoffment of all ye seyd lendes and make leuery but in one Towne, this grettly doutyd whether all ye lond pass or but thatt land whereof he made leuery.

(4) Item, if a recouvery he had ayenst *Cestui a que use* In Tayll, whether this shall bynd after his deth or no is also in doute amonge ye Justices.

(5) Item, if a man ougth to have a reall accyon, For yes secrett Feffmentes to usez he can nott Tell ayenst whom to brenge his accyon but ayenst hym thatt Takyth ye profeffettes, and if he breng nott his accyon within a yere he hath no remedy in ye most parte of accyons.

(6) Item, if a man hauyng neuer so much landes In use be bound and his heres In an obligacyon and dye, hauyng nott goodes suffecyent to satysfye the obligacyon, his heir, tho he haue ye use of a thousand pounde land, shall nott be chargyd with no parte of the sayd obligacyon, and yett if ye land had dissendyd he should haue made Satysfaccion For ye seyd dett.

(7) Item, ye usez cause much landes to come into mortmayn and to Fyndyng of prestes.

(8) Item, usez cause landes to passe by wyll commenly when he that makyth ye wyll knoweth nott whatt he doth nor his gostly Father whatt he wrytyth.

(9) Item, if a man makyth a wyll of his landes and goodes, and hytt is prouyd in ye speretuall Court thatt he had nott att ye makyng of ye wyll such perffett mynd *qualem Testantez debent habere*, all shall be made voyde and yat by ij wytnesez.

(10) Item, he thatt hath Feffez to his use doth apper to be owner and Tennant and is nott, by reson wheiroff many be disseuyd In barganyng with them, and many poore Fermers undun, and many old seruyng men In yer age put From yer offices and anuytez beffore grauntyd them in recompens of yer seruyce doyn in youth.

(11) Item, yes usez doth undo many Wood salez wherfore money is payed.

(12) Item, I omytt ye grett nombre of doutes which doth ryse by usez.

(13) [1] Item, where, *per Cas*, Some one man takyth asyngler welth their be a hundrioth against one that takyth hurt and losse theirby, is yt a good lawe?

(14) Item, if a man see and consyder the matterz nowe hyngyng in varyaunce in euery the kinges Courtes and in arbitrement, he shall Fynd yt yes decetfull usez is the cause the most parte of the seid varyaunce.

(15) Item, if the usez, which is in Regard but ye shadowe of the thyng and not ye thyng Indeyd, were clene put out of the lawe men y^{at} had right should hereaftur rather come to there remedyes.

(16) Item, yes usez defraude wemen From dowers and men which mary we [men] Inherytable or Inherytors For y^{er} Interestes as Tenent by the Courtesy.

(17) Item, if a man put a maner enfeffment, to which an aduouson is appendent, be hit neuer so grete in value, he nor his heirez can nat present, and iff he do he is a wrong doer, and so hit is if hit be an aduowson In gros, w^{e} is grete myscheif and makyth trouble oft.

(18) Item, if a man which hath Feoffes to his use do comande one of his seruantz or Freyndes to Cut downe a Tre in his grounde, or licens a pore man to cut downe a Tre or put his bestes in his grounde, the Feffez mey punyshe the seid seruant by Fyne and Imprisonment or utlary or Inditement in the sessyons of peace.

(19) Item, if A. B. haue Feffez to his use, and an estranger put his bestes upon the gronde, A. B. takyth the bestes In his grounde or percas In his Corne and dryuth them to pounde, he that ought the beystes shall punyshe A. B. for takyng the seid bestes.

[1] Here the handwriting changes.

(20) Item, wheirby the lawe of ye Realme if a man do Treson murdre or Felony, in example of other, the Kynge or the other lordes should haue his landes, nowe *Cestui que use*, commyttyng Treson felony or murdre, shall Forfett no lande by e Commene lawe, to the grete boldness of evyll persons.

(21) [2] Item, if *Cestui que use* be outlawed, the kyng ougth, if he had the possession, to haue ye profettes of his landes, and nowe ye land, beyng In use, he can haue nothyng.

(22) Item, if landes dissend unto ij or mo wemyn w^{c} mary, if the one husband be of more power then ye other, and Takyth ye hole proffettes or ye grett parte, or Fellyth all ye woodes, yer is no remedy by ye commen lawe of ye realme, nor he thatt is wrongyd can nott compell the other to make protecyon nor seueraunce.

(23) Item, *Cestui que use* doth occupye the grounde and makyth lessez, if ye lesse do lett downe housez or cut downe woodes, he hath no accyon of wast nor other remedy by ye lawe.

(24) Item, he that hath ye use can nott haue accyon of accompt nor other remedy ayenst his baylyez nor Fermers.

(25) Item, In all accions of Transgressiones accompt or other accyon personall brougth by . . . the Feffez, if any one of them wylbe currupt and relez, all ye matter is lost and all ye other barred For euer.

(26) Item, *Cestui que use* can not make a good quytaunce to his bayly when he hath payd hym his rent.

(27) Item, women wich haue ionturez For their lyuez and Feffez to yer usez, mey cut downe woodes and pull downe housez and no remedy by ye lawe.

(28) Item, yes Feffementes to usez cause many deleys by essoynes vouchers and other wyse In reall accyons, wheirby men be oft Infenytely of their lawffull Rigth deleyed.

(29) Item, all yes Feffmentes to usez and ententes began Fyrst apon Fraude and disseytt, w^{c} is nott meytt to be made nor allowed For a lawe.

(30) Item, if aman haue Feffez to his use, and one of his Feffez be unthryfty and be bounde in a statute, ye land shalbe In execucyon For ye porcyon of ye landes of *Cestui que use*.

(31) Item, if the suruyuor of ye Feffez dye, his wyff shalbe Indowed of ye iij^{de} parte of other mens landes, and iff ye heir be within age, ye lord etc. shall haue ye ward ofye resedowe of the land etc.

(32) Item, ye usez make double lawe, and cause thatt yer is no remedy att ye comen lawe, For *Cestui que use* can not sue att ye comen lawe.

(33) Item, *Cestui que use* might make no leez graunt Feffment nor relez to be good beffore ye statute of Richard ye therd, apon which do ryse agrett nombre of doutes and myscheffes.

(34) Item, y^{er} would no accyon lye ayenst *Cestui que use* beffore ye statutes of pernors of proffettes apon wich doth ryse many doutes and unsuertyez.

(35) Item, *Cestui que use* can haue no accyon by ye lawe, and yett he semyth Tenant and owner to ye world, which is agrett disseytt.

(36) Item, Fynally the usez began apon disseytt, and ye most thatt followyth yerof is disseyt, so thatt, ye disseytes thatt be their In, I wyll unthertake shall conteyne a grett boke, if yer be well serched out with study, so thatt ye usez subuerte ye lawe and Customez of yis Realme.

(37) Item, here fowith For whatt purpose and entent Feffementes to usez haue byn practysed within this realme.

(38) Fyrst, to ye Intent and euyll purpose that if a man of power gatt ouer ye possession of landes, albe thatt hytt were by wrong, yett, if he were able to kepe ye possession, he would make so many Feffmentes, thatt the partye that

[2] Here the original writing begins again.

should shewe, mygth neuer knowe ayenst whome to breng his accyon, and so without remedy by ye Comen lawe of ye realme.

(39) Item, to ye entent To dyffraude ye lord of whom the land is holdyn from ward maryage and releyffe, And to ye entent that ye cheif lord should nott knowe apon whatt person or persons to adouwe, For his rentes Customez and seruyces dewe.

(40) Item, to ye entent that if a man dyd Treson murdre or Felony thatt he should Forfett no land.

(41) Item, to ye entent that all recouerey in accyons reall ayenst hym should be voyde.

(42) Item, to ye entent thatt, if any recovery were had in any accyon personall For dett or otherwyse, thatt yer should be no execucyons of ye landes.

(43) Item, to ye entent thatt no man should knowe of whom to take a leez gyfft or Feffement, For their [*sic*] Fraudez and such lyke were usez deuysed.

Endorsed: — "Damna usuum," and "Inconveniences for sufferance of uses."

NO. III.

LETTERS AND PAPERS. HENRY VIII. Vol. 101, fo. 286. Calendared in L. and P., H. VIII. Vol. X. No. 246 (4).

[I have added the numbers to the paragraphs.]

For as moche as by reason of uses lately practised in this realme, the good old lawes of the same be nygh subuertid, to the derogacion of the Kinges crowne and hurt of his people and Subgettes of this realme, Be it therfor enactid, by auctorite of this present parliament, as herafter ensueth in these articles folowyng.

(1) First, if eny person or persons, hauyng the use of eny londes tenementes or hereditamentes, be atteyntid or convict by the dewe course of the lawes of this realme of eny treasons murdres or felonyez or eny other offencez wherby londes ought to be seased lost or forfit, shall in euery suche case lose and forfit the londes tenementes and hereditamentes, whereof suche person or persons so offendyng shall haue suche use att the day of suche offensez don or eny tyme after, in like maner forme and condicion in euery behalf as if suche offendor, hauyng suche use, had had suche estate in possession reuision or remaynder in the said londes tenementes or hereditamentes so to be seased lost or forfit, as he had in the use.

(2) Item, if eny man mary a woman hauying the use of eny londes tenementes or hereditamentes in fee simple or intayle, and after suche mariage haue issue by the said woman, and she dieth, the husbond shalbe tenant by the courtesy of the same londes tenementes and hereditamentes, so beyng in use, in like maner forme and condicion as if his wife had had suche estate in the possession of suche londes tenementes or hereditamentes as she had in th'use.

(3) Item, if eny use of londes tenementes or hereditamentes discend in fee simple to eny person or persons from their auncestors, that then, in euery suche case, the heir and heirez, to whom suche use shall discend, shalbe bounden to all accions execucionz, and to all other intentes whatsoeuer, in like maner forme and condicion as suche heir or heires shuld haue ben bounden, if the auncestors had died seased of the possession reuersion or remaynder of suche londes tenementes or hereditamentes so discendid in use.

(4) Item, euery person and persons, hauyng the use in eny londes tenementes or hereditamentes, shalbe admytted taken and reputid, in all condicions [1] and to all ententes and purposez, tenantes to the chife lerdes of whom the londes

[1] The word "condicions" is written over the word "accions."

tenementes or hereditamentes, wherof they haue suche use, shalbe holden, in like maner forme and condicion in euery behalf, as if they had had suche estate in the possession reuersion or remaynder of the londes tenementes or hereditamentes, whereof they haue suche use, as they haue in the use, and that all recoueryez had or herafter to be had ageyn them, and fynes feoffementes releassez and confirmacions levied made or to be levied and made by them, shalbe of the same effect strengith and force ageyn them and their heirez, to all intentes and purposez, as if they, att the tyme of suche recouveryez or levying suche fynez or makyng suche feoffementes releassez or confirmacions, had had suche estates rightes and interestes in the possession reuersion or remaynder of the same londes tenementes or hereditamentes so beyng in use, as they had in the use.

(5) Item, that uses may be declared and expressed in Fynes, if the parties to the fyne will require it, and that euery fyne feoffement releasse and confirmacion, to be made levied or had by eny person or persons to eny person or persons after the first day of January next, wherein none use shalbe certenly lymytted and fully expressed, shalbe takyn to the onely use of these persons to whom suche fynes feoffementes releassez or confirmacions shalbe made or had, and that all recoueryez shalbe to the use of the recouerers, eny usage to the contrary heretofore had not withstondyng.

(6) Item, that no bargeyn contract Couenaunt or Aggrement, by them selfes onely, shall make or chaunge the use of eny londes tenementes or hereditamentes from eny person or persons, but that the persons grevid by non performance of suche bargeyns contractes couenauntes or aggrementes, their executores or admynystrators, shall haue their remediez by accions of couenaunt or upon the case or otherwise, as the case shall require to be requisite, and recouer their damages and amendes in euery suche accions and sutes for brekyng and non obseruyng suche bargeynes contracts couenauntes and aggrementes, and none otherwise, eny usage heretofore used to the contrary herof not withstondyng.

(7) Item, that recoueryes, in comen writtes of entre in the post, had by assent of the parties, and fynes and feoffementes hereafter to be had or made, shall bynde the parties to suche recoueryes fynes and feoffementes and their heires and the feoffez to their usez and their heires; And that none other person or persons, whiche shall haue eny reuersion or remaynder of the londes and tenementes herafter to be recouered in suche writtes, or wherof eny fynes or feoffementes hereafter shalbe made or had, shalbe bounden or take eny losse damage or hurt by reason of suche recoueryes fynes or feoffementes, unlesse they be made privy to them by voucher, aide prayer, or otherwise by their assentes determyn or release their interestes rightes and titles in suche reuersions and remaynders, but that the title interest and possession whiche eny person or persons, not beyng parties nor privie to eny suche recoueryez fynes or feoffementes shall haue in eny reuersions or remaynderz att the tyme of such recoueryez fynes or feoffementes had or made, shall still remayn and abide in them and their heires, as if no suche recoueryez fynes or feoffementes had be [*sic*] had or made.

W. S. Holdsworth.

ST. JOHN'S COLLEGE, OXFORD.